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2008 NOV 17 10:00 AM
GEORGE D. WEBSTER (1981-1996)
JAMES E. COLEMAN (1977-2008)
OF COUNSEL
J. COLEMAN BEAN
BENT HASTEDSON BROWN
NOT ADMITTED TO DC BAR

November 3, 2008

Mr. Jeff S. Jordan
Supervisory Attorney
Complaints, Examination & Legal
Administration
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

RE: MUR 6096

Dear Mr. Jordan:

This office represents Americans for Limited Government Research Foundation, Americans for Limited Government, Inc., and Howard Rich (collectively "Respondents") in the above-referenced MUR. Designations of Counsel signed by the Respondents are submitted with this letter.

We have reviewed the complaint filed on October 14, 2008 by the Democratic Senatorial Campaign Committee. As set forth below, the Complaint contains erroneous allegations and incorrect legal theories that fail to state a claim that a violation has occurred. Therefore, the Commission should find no reason to believe that Respondents violated the Federal Election Campaign Act of 1971, as amended ("Act" or "FECA"), and the Commission should dismiss the Complaint.

The Complaint

The Complaint alleges that Respondents violated the prohibition against using contributor information derived from FEC reports "for the purpose of soliciting contributions or for commercial purposes." 2 U.S.C. § 438(a)(4). The Complaint specifically alleges that the Respondents obtained names and addresses of donors to the Democratic Senatorial Campaign Committee ("DSCC") from the DSCC's FEC filings and used those names and addresses to send letters to those donors with an alleged intent to "harass" those donors. The Complaint contends that this alleged use of the DSCC's donors' names was "a clear violation of section 438(a)(4)." As outlined below, these allegations are groundless and the Respondents have taken no actions to which any provision of the FECA applies.

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Factual Background

Americans for Limited Government Research Foundation is a nonprofit, educational organization which has been recognized as tax-exempt under section 501(c)(3) of the Internal Revenue Code. Americans for Limited Government, Inc. is a nonprofit, social welfare organization which has been recognized as tax-exempt under section 501(c)(4) of the Internal Revenue Code. Howard Rich is the Chairman of both organizations.

Both organizations and Mr. Rich are named as Respondents in the complaint filed by the DSCC and, therefore, they will be referred to collectively as "Respondents."

In the Summer and early Fall of 2008, the Respondents gathered names and addresses of individuals who reportedly had made contributions to organizations that, in Respondents' view, were organizations on the left of the political spectrum. The Respondents gathered those names and addresses for the purpose of sending to those individuals copies of the letter attached to the DSCC's complaint ("the letter"). Those names and addresses were gathered from publicly available sources, including the Internet. None of the names and addresses to whom the letter was sent were gathered from any FEC reports or from reports filed with the FEC by the DSCC.

In late September, 2008, the Respondents sent copies of the letter to individuals whose names and addresses had been gathered as detailed above. The letter sent by the Respondents does not solicit any contributions, propose any commercial transaction, or ask the recipient to take any action.

Legal Analysis

The Act requires the filing of reports and statements (by individuals and entities subject to the FECA) that contain, *inter alia*, the names and addresses of contributors to candidates and political committees. The Act requires the Commission to make those reports and statements available to the public for inspection and copying, 2 U.S.C. § 438 (a)(4). That section also makes it illegal for any person to use information obtained from those reports and statements "for the purpose of soliciting contributions or for commercial purposes..." *Id.*

The DSCC alleges that one individual, named in the DSCC complaint, and some other donors to the DSCC received copies of the letter sent out by the Respondents. Based on that meager information, the DSCC concludes that the Respondents could not have "obtained the names and personal addresses of DSCC's voters other than from the DSCC's FEC filings." DSCC Complaint at unnumbered page 3. The DSCC then further "alleges" that Respondents obtained names and addresses of some recipients of the Respondents' letter from FEC records.

The Respondents did not obtain names and addresses from the DSCC's reports to the FEC or from any other FEC records. The Respondents obtained the names and addresses from other permissible sources. If, as alleged by the DSCC, some of those names are the same as those of donors to the DSCC, that would not be an unusual

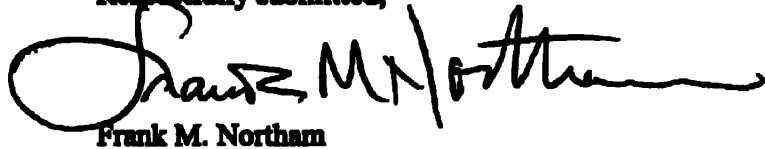
coincidence. The Respondents gathered names and addresses of individuals who had made contributions to organizations that could be identified as being on the left of the political spectrum. That well might include individuals who also contributed to the DSCC.

Since, however, the DSCC's filings with the FEC were not the source of the names and addresses utilized by the Respondents, the strictures of 2 U.S.C. § 438 (a)(4) do not come into play. For that reason, the Respondents need not address the contention that the Respondents' letter implicates the "use" prohibition set forth in section 438 (a)(4). As noted, however, the letter does not solicit any contribution or commercial transaction; nor does the letter constitute "harassment," as argued by the DSCC.

Conclusion

Before section 438 (a)(4) can be invoked, there must be a use of contributor information obtained from filings with the FEC. No such use occurred in connection with the letters sent out by the Respondents. Therefore, the Commission should find that there is no reason to believe that the Respondents violated the Act, and this matter should be dismissed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank M. Northam", written in a cursive style.

Frank M. Northam



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2008 NOV -7 A 10:09

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Client.
FAX (202) 219-9923

MUR # 6096

NAME OF COUNSEL: Frank M. Northam

FIRM: Webster, Chamberlain & Bean

ADDRESS: 1747 Pennsylvania Ave, NW Suite 1000

Washington, DC 20006

TELEPHONE- OFFICE (202) 785-9500

FAX (202) 835-0243

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

10/23/08
Date

[Signature]
Respondent/Client Signature

TREASURER
Title

RESPONDENT/CLIENT AMERICAN FOR LIMITED GOVERNMENT FOUNDATION
(Please Print)

MAILING
ADDRESS: 9900 MICH S SE 305

FARMER VA 22031

TELEPHONE- HOME _____

BUSINESS (703) 383-0980

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(1)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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10/23/08
Date

[Signature]
Respondent/Client Signature

TREASURER
Title

RESPONDENT/CLIENT AMERICANS FOR LIMITED GOVERNMENT
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ADDRESS: 9900 MAIN ST STE 302

FALLS CHURCH VA 22031

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BUSINESS (703) 353-0880

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from the Commission and to act on my behalf before the Commission.

10-23-08
Date

Howard Rech
Respondent/Client Signature

Title

RESPONDENT/CLIENT MR. HOWARD RECH
(Please Print)

MAILING
ADDRESS: 9900 MAIN ST SITE 305

FALLS CHURCH, VA 22031

TELEPHONE- HOME _____

BUSINESS (703) 383-0220

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